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APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 09/749,631 12/28/2000 Takao Shimamura Q62040 7590 06/04/2004 **EXAMINER** SUGHRUE, MION, ZINN HINDI, NABIL Z MACPEAK & SEAS, PLLC ART UNIT PAPER NUMBER Suite 800 2100 Pennsylvania Avenue, N.W. 2655 Washington, DC 20037-3213 DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/749,631	SHIMAMURA ET AL.
	Examiner	Art Unit
The MANUALO DATE And	NABIL Z HINDI	2655
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).		
Status		
1)⊠ Responsive to communication(s) filed on 26 M	arch 2004.	
	action is non-final.	
3) Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.		
Disposition of Claims		
4) ⊠ Claim(s) 1-10 and 12-61 is/are pending in the a 4a) Of the above claim(s) is/are withdray 5) ⊠ Claim(s) 1-10,12-51 and 53-60 is/are allowed. 6) □ Claim(s) 52 and 61 is/are rejected. 7) □ Claim(s) is/are objected to. 8) □ Claim(s) are subject to restriction and/o	wn from consideration.	
Application Papers		
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) accomplished any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Examine	epted or b) objected to by the drawing(s) be held in abeyance. Serion is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119		
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 		
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	

Application/Control Number: 09/749,631

Art Unit: 2655

In response to applicant's letter dated March 26, 2004. the following action is taken: In view of applicant's remarks. The restriction requirement dated Oct. 27, 2003 and March 26, 2004 are hereby withdrawn. All the claims are examined on the merit.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 52 and 61 are rejected under 35 U.S.C. 102(e) as being anticipated by Nomura (6298024).

The limitations of claims 52 and 61 read on the inherent feature of the optical disk read out operation. The limitation merely read on a disk accessing operation wherein the light beam is moved from one location to another generating an RF signal representative of the data on the disk. On a fist location an RF signal is generated, then the spot is moved to a different location generating another RF signal. The RF signal must be compared to a predetermined level in order to determine the data on the disk. The reference shows the use of an optical disk where a focused light beam is moved from a pit location to a mirror location generating an RF signal having a predetermined level as shown in fig s 4A-7.

Claims 1-10, 12-51, and 53-60 are allowed.

None of the cited prior art shows or teaches an optical disk classifying operation wherein while the disk is rotating, moving the head into a non-program area of the disk (lead-in area) to determine if a read signal have a valid level. If the signal does not have a valid level, the head is moved to a program area of the disk (out side the lead-in area of the disk) to determined if the second signal have a valid level in order to classify the disk while disk is rotating as argued by applicant.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to NABIL Z HINDI at telephone number (703) 308-1555.

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